

United States District Court
District of Idaho

In the matter of :

Standards and Procedures for)	General Order 133
Payment of CJA Fees in Federal)	
Habeas Corpus Death Penalty Cases)	
_____)	

To provide consistency in the payment of fees and expenses in federal habeas corpus death penalty cases, and to inform counsel in advance of the Court's expectations, the Court establishes the following standards and procedures.

1. Interim Submission of Vouchers

Because of the extended length of a habeas corpus death penalty case, and to facilitate the Court in the processing and approval of fees and expenses, counsel shall submit interim CJA vouchers. Counsel shall submit to the court clerk an interim CJA Form 30, "Death Penalty Proceedings: Appointment of and Authority to Pay Court Appointed Counsel" for each interim period. The first interim period shall conclude no later than the third full month after appointment. Thereafter, each interim voucher shall reflect time and expenses incurred for each subsequent three month period. Interim vouchers shall be submitted no later than one month following the close of that interim period.

2. Payment of Vouchers

All vouchers shall be supported by itemized time and expense statements. Counsel shall identify all payments previously received. Authorization will be made for payment of all approved itemized hours and all reimbursable expenses. Each interim voucher submitted shall be reviewed for the amount of time claimed and the type of service provided, in accordance with the standards set forth below.

a. Itemization of Hours

Billing statements shall list the time allotted to each discrete task, specifically describe the work performed and, if necessary, explain the relevance of the task to the federal proceedings. Time entries should relate to specific individual tasks, and not simply list multiple tasks performed in a specified block of time. For example, work related to obtaining or reviewing documents should identify the documents or source of the documents reviewed and the time devoted to that task; legal research should identify the topic researched and the time

devoted to that task. Aggregate time blocks and time entries which are generally vague or ambiguous may not be approved for payment.

b. Conferences and Interviews

Time entries reflecting a conference or interview shall identify the topic discussed, the purpose of the meeting, the individuals involved by name and, if necessary, should explain the relevance of the meeting to the federal proceeding.

c. Conferences with Co-counsel

Conferences with co-counsel regarding the status of the case should not be considered billable time. For example, conferences regarding division of labor, scheduling matters and general updates on case development will not be approved for payment. Conferences with co-counsel regarding a substantive issue may be approved for payment if the conference was necessary to the development of that issue. Time entries reflecting a conference with co-counsel must identify the individuals involved, the topic discussed and explain why the discussion was necessary to the development of a substantive issue related to the case.

d. Non-Reimbursable Services

Appointed counsel may not claim compensation for the following:

- Time expended in the preparation or submission of billing statements.
- Time relating to state court proceedings, or for proceedings arising from an appeal of an order of this court. Requests for payment in these instances should be made to the appropriate court.
- Clerical services regardless of whether the person performing those functions is an attorney, law clerk, paralegal or secretary.
- Services of personal nature and expenses incidental thereto for counsel, or on behalf of the person represented.
- Printing of briefs, though costs for photocopying may be submitted.
- Messenger or attorney process service without prior authorization.

3. Reimbursable Expenses

Counsel may be reimbursed for out-of-pocket expenses reasonably incurred incident to the representation. Counsel should incur no single expense in excess of \$500.00 without prior approval of the Court. Such approval should be obtained by filing an application with the court clerk stating the nature of the expense, the estimated dollar amount and the reason the expense is necessary to representation. Upon finding that the expense is reasonable, the Court will issue an order authorizing counsel to incur it. Reoccurring expenses, such as telephone,

photocopying, postage charges, which aggregate more than \$50 per month, are not considered single item expenses requiring Court approval but should be supported by appropriate itemization reports and receipts.

4. Travel Expenses

Travel outside the immediate location of counsel for the purpose of interviewing witnesses, etc., shall be considered a single item expense. Travel expenses, such as mileage, meals and lodging, etc., for a single trip which aggregate in excess of \$500.00, shall be considered one itemized expense and require prior approval of the Court. In all possible instances, counsel shall seek authorization for use of the District of Idaho National Travel Service Account for travel requiring airfares and hotel expenses. Applications for travel approval shall be submitted on a "Request for Travel Authorization" form, and may be submitted by facsimile.

5. Expert or Investigative Services

Requests for expert or investigative services shall identify the type of service required and anticipated cost of services. Counsel shall also identify all prior requests made in either this court or in state proceedings. If any expert or investigative funds have been previously approved by a court, counsel shall detail what additional information is sought or specific factual issues to be investigated, affirm that previously authorized funding has been exhausted and identify why the previous budget was inadequate. Requests submitted ex parte must be supported by a proper showing that confidentiality is required.

Counsel are encouraged to locate proposed experts prior to submitting a request for services so that the court may be informed of the actual billing rate, proposed expert's credentials and experience, and estimated total cost of expert services. Requests for investigative services shall also include a specification of the factual issues being investigated, information suggesting that the investigation is warranted and an estimated completion date for the investigation. All requests shall include enough information so that the Court may assess the reasonableness of each expert service request.

Claims for fees and expenses of investigators, experts and law clerks, must be made on a CJA Form 31, "Death Penalty Proceedings: Ex Parte Request for Authorization and Voucher for Expert and Other Services". All submissions must include a copy of the order authorizing employment of the person whose services are being billed and an itemized statement of the expert's time and expenses. Travel expenses of experts must follow the procedures for court-appointed counsel as set forth in paragraph 4 above.

DATED this 16th day of December, 1996.

Effective Date: January 1, 1997

Signed by: EDWARD J. LODGE, CHIEF JUDGE
 UNITED STATES DISTRICT COURT

LYNN WINMILL
UNITED STATES DISTRICT JUDGE